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SUBJECT: SW CHINA CONFERENCE RAISES QUESTIONS ABOUT PROGRESS ON
INTELLECTUAL PROPERTY RIGHTS

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¶1. (U) This cable contains sensitive but unclassified
information - not for distribution on the Internet.

¶2. (SBU) Summary. Notwithstanding official optimism, serious doubts about PRC intellectual property rights protection progress were voiced by foreign-invested Chinese companies participating in annual national IPR conference held recently in Chongqing. One foreign-invested company representative asserted that organized criminal gangs and possibly officials were involved in the production of counterfeit goods, noting that criminals have attacked intellectual property investigators, causing hospitalization and death. One company representative asked government officials to allow greater participation by private enterprises in the legal processes to protect intellectual property. End Summary.

Government Organizations Emphasize Progress on IPR ...

¶3. (SBU) Government officials and industry representatives gathered November 18 in the southwest Chinese city of Chongqing for the 2009 National Symposium on Intellectual Property Protection for Foreign Invested Enterprises. The State Intellectual Property Office (SIPO), the Chongqing Municipal Science Commission, and the Chongqing Municipal Intellectual Property Bureau sponsored the one-day conference. SIPO Deputy Director Gan Shaoning opened the meeting by emphasizing that China was making progress on intellectual property (IP) rights protection, but still had a long way to go. He likened the IP protection delays China had encountered to a delayed plane flight to Shanghai; you arrive in Shanghai, but somewhat later than planned. As evidence that China was making progress on IP protection, he noted that all related bureaus had increased their manpower.

¶4. (SBU) Liu Guanglei, Chongqing Municipal Party Committee member and Secretary of the Politics and Law Committee, emphasized the local aspects of IP protection. He said that Municipal Party Secretary Bo Xilai aimed to make the city a "model city" for IP protection, which will encourage foreign investment and encourage rapid economic development. Liu said that Chongqing seeks to become a base for scientific research and noted the authorities would continue their crackdown on

counterfeit products. The themes highlighted by Gan at the national level, and Liu at the local level, were generally echoed by officials from the General Administration of Customs, the Supreme People's Procuratorate, and the Public Security Bureau.

... But Businesses Voice Skepticism of IP Success

15. (SBU) Zhang Weian, the Senior Intellectual Property Lawyer for General Electric's China operations and the Chairman of the China Association of Enterprises with Foreign Investment's (CAEFI) Quality Brands Protection Committee (QBPC), said that QBPC members believe that counterfeiting is a greater problem this year than last. Zhang said that some provinces, which he did not name, refused to receive QBPC's reports on IP. (Note: QBPC claims to have over 180 multinational member companies including Texas Instruments, Caterpillar, Tyco Electronics, Dell, and the National Football League. CAEFI is affiliated with the Ministry of Commerce. End Note.)

16. (SBU) Zhang said that China's current IP efforts focused too heavily on patent registration, which does not necessarily boost innovation or IP protection. He asserted that the focus on patents may encourage local governments to produce junk patents, and cited the example of a Shanghai man who filed over 1,000 patents. Zhang stated that, at present, China is not innovating, but merely accumulating patents. He argued that China should learn from the Japanese patent and trademark model

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in order to improve its IP protection.

Gangsters and Possibly Officials Involved in Counterfeiting

17. (SBU) A QBPC member from Johnson and Johnson claimed that organized criminal groups participated in the production of counterfeit goods in China. He said these groups operated from factories in smaller towns and villages, and that some officials might also be involved in the production of counterfeits. He stated that QBPC members had been attacked while attempting to investigate claims of counterfeit production. Some of the injuries suffered during the attacks led to hospitalization and, in one case, death. Some counterfeiters masquerading as police officers asked investigators to delete video recordings of counterfeiting operations. (Note: The member provided one general example of an attack in Hubei province, but did not give more specifics on other cases. End Note.)

Companies Encourage Improved Intellectual Property Protection

18. (SBU) An official from Tyco Electronics said that firms needed China's help to protect IP, and this protection could help make China a more innovative center of commerce. The official said that better IP protection could help businesses transition from stamping "made in China" on their products, to boasting that goods were "created in China."

¶9. (SBU) Another company went further in its recommendations to government officials. The representative from a golf company asserted that enterprises should be allowed to participate in legal proceedings to protect IP. He said that the punishment for IP infringement is not strong enough, and the legal standard to prove infringement in court varied across China. The official said that the courts in some areas required the company claiming IP violations to supply samples of the allegedly infringing product. Some penalties and violations depend on the total weight of the infringed goods, as opposed to the value of the goods. Moreover, criminal punishment for producers of pirated goods could be reduced if the infringer paid larger amount of restitution. The official claimed that an offender who received a three-year prison sentence for IP violations could pay larger amounts of restitution to reduce his sentence to a total of 1-2 years.

Officials Staring Off into Space or Taking Message to Heart?

¶10. (SBU) Government officials involved in the conference read their prepared opening and closing remarks and appeared only moderately engaged when QBPC representatives spoke. Liu left well before all ministry officials had a chance to give their opening remarks, and did not return for the statements from private companies. The official from the Ministry of Commerce appeared particularly disengaged during companies' presentations, starrng off into an opposite corner of the meeting hall. Gan read what appeared to be his pre-prepared closing remarks, saying that he had taken note of the comments made during the different presentations. He then said that the international community should look at China's IP problems from a holistic perspective. He said that China is still a developing country and the international standard for IP protection is a relatively high bar for China at this time.

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